

2007 LEGISLATURE

NATURAL RESOURCES COMMITTEE

DATE _____

[illegible]

**MONTANA STATE SENATE
2007 LEGISLATURE**

**VISITOR REGISTER
NATURAL RESOURCES**

DATE 4-4-07

BILLS BEING HEARD TODAY ^{HB} 304, 835, 569, 473
^{HB} 831

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
Tim Hall	444-6699	DNR	HB831	X	
Steve Brown	523-2558	Hollowtop Ranch	HB831	X	
Don MacIntyre	442-8283	UTILITY SOLUTIONS	HB831	X	
John Youngberg	570-4103	MFBF	HB831 & 473	X	
Ron Edwards	580-2575	Big Sky Water & Sewer Dist.	HB831		X
GREG AMES	444-2945	MT. DEPT OF AGR	HB 569	INFORMATION ONLY	
Frank Gilmore	782-6994	MT Tech	HB835	INFORMATION	
Russ McPherson	882-2225	McPherson	HB 837		X
Doug Abbott	496-4127	MT Tech	HB835	INFORMATION	
Mike Murphy	235-4555	MWRA	HB 831 HB 473	X	
John Stromgren		MA. Stockmans	HB 473	X	HB831 X
MICK SEEBURGH	767-4548	ABAC	HB831, 304	X	
Stuart Brackshaw	447-9922	Forest Unlimited	HB831/304	X	
Tom Patten	443-4153	NRMS	HB831/304	INFORMATION	
Mark Agnew	449-9933	MT Trout Unlimited	831/304	X	
Jeff Barber	443-2520	MEIC	304	X	
ROBIN SHROPSHIRE	465-2231	UNIV. of Montana	HB 835	info	
Anne Hedger	443-2280	MEIC	835		X
Jay Skoog	443-1160	ACEC-Montana	HB831		X
Abigail St. Lawrence	443-2211	MAR	HB831		X
Deann Orpel	443-4032	MT Producers	HB831		X
"	"	"	HB304	X	

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

Gay Amstutz 241-3231
 Holly Finner 442-0005
 Cora Allen 443-5541
 Richland Econom. Development
 Development
 POL Montana
 WETA
 HB 831
 HB 835

VISITOR REGISTER

NATURAL RESOURCES

BILLS BEING HEARD TODAY ^{HB} ^{HB} ^{HB}
HB 304, 835, 569, 473
^{HB}
831

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

Stahl
Rice

4-4-07
NAS

SENATOR LIMP

I APOLOGIZE FOR NOT
BEING ABLE TO COME DUE TO
3RD READING & MOTIONS ON THE
FLOOR.

THANK YOU
Wagner

OK TO DO PRO & OPP
& EURO IF I CAN DO
OPEN CLOSE & ALL
QUESTIONS

Wagner

4-4-07

I appreciate and
approve of ^(Sen.) Kelly
Schhardt guiding
my open and close
on HB 569. I
could not be absent
from the House floor
during motions and
3rd Reading.

Thanks!

Rep. Diane Rice
HD 71

HB 22 -- 12/2005 Billing Top 100 Payers

108222	\$5,000.00 MONTANA, STATE OF DEPT OF NATURAL RESOURCES,	UPPER MUSSELSHELL - 1424 9TH AVE PO BOX 201601 HELENA, MT 59620	B	Y		40	252166	12312005
9451	\$4,620.00 BOZEMAN, CITY OF,	PO BOX 1230 BOZEMAN, MT 59771	B				16567	12312005
309	\$4,460.00 YTTIMBER LLC,	4414 S GEHELER LN BOISE, ID 83716	B				745	12312005
83468	\$4,460.00 BECK, DONALD R	1260 YELLOWSTONE TRAIL DEER LODGE, MT 59722	B				201136	12312005
1928	\$4,400.00 SPITZBERGEN SHIPPING CO,	PO BOX 86 MIDLAND PARK, NJ 07432	B				3666	12312005
108066	\$4,380.00 MONTANA, STATE OF DEPT OF FISH WILDLIFE & PARKS,	LOWER MISSOURI - LITTLE MISSOURI WATER RESERVATIONS PO BOX 201601 HE	B	N			251688	12312005
70577	\$4,320.00 DORAZI, JR, JOHN Z	716 HARRISON ST MISSOULA, MT 59802	B				168502	12312005
71538	\$4,280.00 DEPUY, DAVID W	PO BOX 487 LIVINGSTON, MT 59047	B				170965	12312005
40779	\$4,260.00 MERCHANT, JAMES R	HC 70 VOLBORG, MT 59351	B				94106	12312005
5802	\$4,200.00 JTL GROUP INC,	PO BOX 30238 BILLINGS, MT 59107	B				10280	12312005
22684	\$4,140.00 SKINNER, ANDY R	PO BOX 5447 HELENA, MT 59604	B				48900	12312005
820	\$4,120.00 WARM SPRINGS RANCH PARTNERSHIP,	% DOUGLAS WOLCOTT PO BOX 111 ALDER, MT 59710	B				1638	12312005
8465	\$4,120.00 CROWN PACIFIC PARTNERSHIP,	805 SW BROADWAY STE 1500 PORTLAND, OR 97205	B				14884	12312005
1792	\$4,100.00 STIMSON LUMBER CO,	PO BOX 1120 BONNER, MT 59823	B				3426	12312005
3120	\$4,100.00 QUARTZ HILL MINING CO,	% HENERY T SWIGERT PO BOX 10123 PORTLAND, OR 97210	B				5689	12312005
13301	\$4,100.00 WARD, JOHN M	4625 GLASS DR, HELENA, MT 59602	B				25607	12312005
7086	\$4,080.00 GLASGOW, CITY OF,	319 THIRD ST S, GLASGOW, MT 59230	B				12526	12312005
38249	\$4,080.00 MOUNT, SHIRLEY M	825 PARKHILL DR, BILLINGS, MT 59102	B				87932	12312005
404	\$4,060.00 WOLF POINT, CITY OF,	201 4TH AVE S, WOLF POINT, MT 59201	B				880	12312005
579	\$4,060.00 WHITEFISH, CITY OF,	PO BOX 158, WHITEFISH, MT 59937	B				1213	12312005
7039	\$4,040.00 GOLDEN BASIN CO INC,	2890 NE LOTNE DR, BEND, OR 97701	B				12441	12312005
8295	\$4,040.00 DEER LODGE, CITY OF,	300 MAIN ST DEER LODGE, MT 59722	B				14596	12312005
8930	\$4,020.00 CHICO HOT SPRINGS RANCH,	PO BOX 29 PRAY, MT 59065	B				15663	12312005
52738	\$4,020.00 JOHNSTON, MARGARET M	314 HICKORY ANACONDA, MT 59711	B				124109	12312005
34065	\$4,000.00 PALMER, MARY ELLEN	1616 JEROME PLACE, HELENA, MT 59601	B				77485	12312005
49229	\$4,000.00 KRALIC, JOAN M	1915 KNIGHT HELENA, MT 59601	B				115429	12312005
67038	\$4,000.00 FINNEGAN, GRACE J	314 HICKORY ANACONDA, MT 59711	B				159722	12312005
2228	\$3,520.00 SHELL OIL CO,	ATTN WESTERN ASSET PO BOX 576 HOUSTON, TX 77001	B				4177	12312005
73602	\$3,440.00 CRISAFULLI, ANGELO J	1520 N KENDRICK AVE, GLENDIVE, MT 59330	B				176030	12312005
8717	\$3,260.00 COLUMBIA FALLS ALUMINUM CO LLC,	2000 ALUMINUM DR, COLUMBIA FALLS, MT 59912	B				15341	12312005
86833	\$3,200.00 ANTONIOLI, FRANK M	724 S WESTERN AVE, BUTTE, MT 59701	B				207005	12312005
4823	\$3,160.00 MADISON FORK RANCH,	8310 S VALLEY HWY, ENGLEWOOD, CO 80112	B				8637	12312005
66202	\$3,160.00 FOSSUM, ORVILLE G	PO BOX 1134 GLASGOW, MT 59230	B				157569	12312005
3273	\$3,140.00 POLSON, CITY OF,	% WATER DEPT PO BOX 238 POLSON, MT 59860	B				5924	12312005
5494	\$3,120.00 KOOTENAI DEVELOPMENT CO,	% ALAN STRINGER PO BOX 695 LIBBY, MT 59923	B				9775	12312005
68892	\$3,120.00 ELLIOTT, EVERETT C	PO BOX 1431 CONRAD, MT 59425	B				164239	12312005
556	\$3,100.00 WILDER RESORTS INC,	FAIRMONT HOT SPRINGS RESORT 1500 FAIRMONT RD ANACONDA, MT 59711	B				1169	12312005
3660	\$3,100.00 OREGON SHORT LINE RAILROAD CO,	ATTN DENNIS MILLER 1416 DODGE ST RM 1100 OMAHA, NE 68179	B				6608	12312005
90501	\$3,080.00 PLOYHAR, LUKE	1619 COLBY AVE, #4 LOS ANGELES, CA 90025	B				218333	12312005
1638	\$3,060.00 SUPERIOR, TOWN OF,	PO BOX 726 SUPERIOR, MT 59872	B				3165	12312005
3071	\$3,060.00 RAE WATER & SEWER DIST 313,	129 PERCIVAL PATH BOZEMAN, MT 59718	B				5599	12312005
54763	\$3,040.00 IRVINE, NORMAN J	% CHARLES A SMITH, POA 212 STORY HILL RD BOZEMAN, MT 59715	B				129065	12312005
4448	\$3,040.00 MILES CITY, CITY OF,	PO BOX 910 MILES CITY, MT 59301	B				7973	12312005
7048	\$3,040.00 GLENDIVE, CITY OF,	300 S MERRILL, GLENDIVE, MT 59330	B				12453	12312005
7771	\$3,040.00 EPC PROPERTIES CO,	1920 E HALLANDALE BEACH BLVD, HALLANDALE, FL 33009	B				13711	12312005
19166	\$3,040.00 STRATTON, VADIS V	1502 MT HIGHWAY 2 W, WHITEHALL, MT 59759	B				40211	12312005
106998	\$3,040.00 LEWIS & CLARK CAPITAL LLC,	250 SECOND ST E, WHITEFISH, MT 59937	B				249685	12312005
7205	\$3,020.00 GARY OPERATING CO,	370 17TH ST SUITE 5300 DENVER, CO 80202	B				12741	12312005
7498	\$3,020.00 FLATHEAD COUNTY WATER DISTRICT #1 EVERGREEN,	130 NICHOLSON DR, KALISPELL, MT 59901	B				13231	12312005
Total	\$920,600.00 Total Paid by Top 100							

HB 22 -- 12/2005 Billing Top 100 Players

INVOICE	AMOUNT DUE	CUSTOMER NAME	CITY	I	I	IRR	DIST	NUM	USERS	CUST_ID	SEQ	BILLING
4216	\$72,600.00	MONTANA, STATE OF DEPT OF FISH WILDLIFE & PARKS,	PO BOX 200701 ,HELENA, MT 59620	B								
4215	\$54,840.00	MONTANA, STATE OF DEPT OF FISH WILDLIFE & PARKS,	UPPER MISSOURI RESERVATION PO BOX 200701,HELENA, MT 59620	B								
3187	\$52,440.00	PERL MONTANA LLC,	303 N BROADWAY SUITE 400 ,BILLINGS, MT 59101	B								
4050	\$44,440.00	MOUNTAIN WATER COMPANY,	1345 W BROADWAY PO BOX 4826,MISSOULA, MT 59806	B								
9241	\$37,720.00	BUTTE SILVER BOW COUNTY,	126 W GRANITE ST ,BUTTE, MT 59701	B								
4778	\$33,500.00	MALONEY RANCHES,	PO BOX 139 ALDER, MT 59710	B								
15426	\$33,400.00	TYRREL, NILA R	PO BOX 291 ,KIRKWOOD, IL 61447	B								
103953	\$27,420.00	MONTANA, STATE OF DEPT OF FISH WILDLIFE & PARKS,	YELLOWSTONE RESERVATION PO BOX 200701,HELENA, MT 59620	B								
31679	\$20,080.00	POGLE, SETH F	PO BOX 4897 ,ARCATA, CA 95518	B								
10326	\$19,060.00	AMAX EXPLORATION INC,	5412 4TH AVE S ,GREAT FALLS, MT 59405	B								
3485	\$16,440.00	PEACE VALLEY PARTNERSHIP,	PO BOX 930 ,BOULDER, MT 59632	B								
5170	\$16,040.00	LEXINGTON SILVER-LEAD MINES INC,	% PAUL HATFIELD PO BOX 323,VERADALE, WA 99037	B								
5814	\$15,140.00	JUDITH GOLD CORP,	TONGUE RVR - 1424 9TH AVE PO BOX 201601,HELENA, MT 59620	B								
108220	\$15,120.00	MONTANA, STATE OF DEPT OF NATURAL RESOURCES,	MULLAN RD PO BOX 4707,MISSOULA, MT 59806	B								
1734	\$14,760.00	STONE CONTAINER CORP,	C/O LANDS & PERMITTING DEPT 40 E BROADWAY BUTTE, MT 59701	B								
8927	\$11,880.00	CHICAGO MILWAUKEE ST PAUL & PACIFIC RR CO,	% CMC HEARTLAND C HARRISON ATT 547 W JACKSON BLVD SUITE 1510 CHICAG	B								
93247	\$10,580.00	NORTHWESTERN CORP,	% MR K C BLACKWELL 1150 N 7TH AVE, TUCSON, AZ 85705	B								
10228	\$10,260.00	ASARCO INC,	ATTN: BLAINE BILDERBACK 2500 LOU MENK DR,FORT WORTH, TX 76131	B								
9249	\$10,180.00	BUSF RAILWAY CO,	PO BOX 905 ,MONARCH, MT 59463	B								
42561	\$10,080.00	MCBRIDE, GWEN VR	PO BOX 1897 ,KALISPELL, MT 59903	B								
5781	\$9,120.00	KALISPELL, CITY OF,	2705 LORRAINE DR ,MISSOULA, MT 59803	B								
100636	\$9,080.00	MARYSVILLE GREENWAY LLC,	PO BOX 5021 ,GREAT FALLS, MT 59403	B								
6926	\$9,060.00	GREAT FALLS, CITY OF,	PO BOX 3727 ,SPOKANE, WA 99220	B								
10130	\$8,440.00	AVISTA CORPORATION,	PO BOX 30958 ,BILLINGS, MT 59111	B								
9684	\$8,400.00	BILLINGS, CITY OF,	2108 CUSTER AVENUE ,HELENA, MT 59602	B								
6512	\$8,380.00	HELENA, CITY OF,	%PO BOX 791 BUTTE, MT 59703	B								
7818	\$8,040.00	EMERALD RESOURCES CO,	601N 6TH ST ,HAMILTON, MT 59840	B								
16150	\$8,000.00	TOWNER, ROB L	PO BOX 200901 ,HELENA, MT 59620	B								
108094	\$8,000.00	MONTANA, STATE OF DEPT OF ENVIRONMENTAL QUALITY,	PO BOX 121 LIMA, MT 59739	B								
70963	\$7,880.00	DIXON, ROBERT D	PO BOX 1088 ,ROSEBURG, OR 97470	B								
94443	\$7,360.00	ROSEBURG RESOURCE CO,	COUNTY COURTHOUSE 800 S MAIN,ANACONDA, MT 59711	B								
10321	\$7,340.00	ANACONDA-DEER LODGE CITY-COUNTY,	PO BOX 361 ELLISTON, MT 59728	B								
49870	\$7,200.00	KNOPE, LORENE M	% RON EDWARDS PO BOX 160670,BIG SKY, MT 59716	B								
9720	\$7,100.00	BIG SKY COUNTY WATER & SEWER DIST #363,	PO BOX 6114 ,GREAT FALLS, MT 59406	B								
2722	\$7,000.00	ROCKY MOUNTAIN EXPLORATION CO,	5106 CHEYENNE TRAIL ,BILLINGS, MT 59106	B								
80589	\$7,000.00	BOYER, BILL	PO BOX 854 ,JACKSON, MT 59736	B								
6365	\$6,400.00	HIRSCHY, JACK LIVESTOCK INC,	HC 85 BOX 4210 ,LEWISTOWN, MT 59457	B								
93619	\$6,220.00	DUFFY, DELLAH B	TALON RANCH PO BOX 403,TWIN BRIDGES, MT 59754	B								
74485	\$6,180.00	COOPER, CAMRON		B								
6428	\$6,080.00	HIGHLANDS QUEST,	PO BOX 24502 ,EUGENE, OR 97402	B								
3426	\$6,040.00	PHILPSBURG TOWN OF,	PO BOX 339 ,PHILPSBURG, MT 59858	B								
4517	\$6,040.00	MEAGHER COUNTY NEWLAND CREEK WATER DISTRICT,	% JOHN V POTTER, JR PO BOX 629,WHITE SULPHUR SPRINGS, MT 59645	B								
99612	\$6,000.00	M A Q LLC,	5205 ECLIPSE DR ,BOZEMAN, MT 59715	B								
10283	\$5,580.00	ARCO ENVIRONMENTAL REMEDIATION LLC,	317 ANACONDA RD ,BUTTE, MT 59701	B								
29932	\$5,480.00	REEB, MARGARET I	PO BOX 301 ,LIVINGSTON, MT 59047	B								
4236	\$5,460.00	MONTANA TUNNELS MINING INC,	PO BOX 176 ,JEFFERSON CITY, MT 59638	B								
56493	\$5,340.00	HOLMAN, LAUREL D	400 5TH N ,GREAT FALLS, MT 59401	B								
5042	\$5,320.00	LIVINGSTON, CITY OF,	414 E CALLENDER ,LIVINGSTON, MT 59047	B								
65965	\$5,020.00	FRAME, MARJORIE L	MISSOULA KOAMEL-MAR TRLR V LGE 185 COUNCIL WAY,MISSOULA, MT 59808	B								
673	\$5,000.00	WESTVIEW MOBILE HOME PARK LLC,	3500 SCHIRAM RD ,MISSOULA, MT 59808	B								
1940	\$5,000.00	SPAR MINING CO,	81 LACOTIA DR ,MISSOULA, MT 59803	B								

Arthur V. Wittich

Admitted MT & CO

Frederick P. Landers, Jr.

Admitted MT & CA

Margot E. Barg

Admitted MT, CA & AR

Hertha L. Lund

Admitted MT



"Thy Liberty in Law"

602 Ferguson Ave., Suite 5
Bozeman, Montana 59718

Phone: (406) 585-5598

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wlf@law-advisor.com

FAX COVER SHEET

DATE: April 4, 2007

DELIVER TO: Senator Bill Tash

FACSIMILE NO: (406) 444-3036

FROM: Arthur V. Wittich

RE: House Bill 831

TOTAL PAGES: 2 *(including cover sheet)*

If you do not receive all pages, please call (406) 585-5598 at your earliest convenience.

Please hand-deliver the attached letter as soon as possible. Thank you.

This fax contains legally confidential and privileged communication. If you receive this fax in error, please call the above sender immediately, and destroy your faxed copy. Thank you.

Susan Brown
1138 Middle Burnt Fork Rd
Stevensville, MT 59870

Mr. Chairman, Greg Lind and Members
Senate Natural Resources Committee

RE: HB 831

Do to the short notice I am unable to be present to testify in person. Please include this as testimony in the Hearing Records of the Senate Natural Resources Committee hearing on HB 831 to be held today, April 4, 2007 at 3:00pm. Thank you for taking the time to look at these comments.

The copy of the legal sized flow chart that is faxed will have three dark spots which represent the highlighted portions. I will use those as the focal points of my comments. For each of the problems that I have identified, I have proposed a way to "fix" the problem and hope that these will be incorporated into the bill. Otherwise I ask that you vote no on HB 831.

1. If you look to the one in the upper left corner, it refers to Section 14. In this section, if the applicant "predicts" no net depletion, the application proceeds to 85-2-311. I believe this should say either 85-2-302 to 85-2-311 or proceeds to the review process in Section 17. Otherwise it appears that such an application could bypass public review. Not all hydrogeologic reports are flawless and objectors should have a right to analyze the data provided.

2. Going to the dark spot in the middle you will see that the word "submitted" is highlighted. It is this section that I am most concerned about.

If the applicant determines net depletion and adverse impact they can proceed if the submit a mitigation or aquifer recharge plan. Either of these may have an application for a change in appropriation which must only be submitted, not approved. Either of these applications may have objectors which could be the same group of individuals impacted by the groundwater application or a different group of users. If they are a different group of objectors, you have expanded the volume of people impacted by the net depletion and adverse impact.

If the application for change of use is submitted 2(e) and 3(f) at the same time as the groundwater application, there would be two sets of objection processes going on simultaneously. It could take easily over a year for the change of appropriation to be processed. It could be denied.

At the same time, Section 17 is proceeding in its own time frame on the groundwater application. For instance, if the objectors of the groundwater application find fault with the volume of the adverse impact, they are having to hire attorneys, consultants, expert

witnesses in a narrow time frame, when the application may not even have proceeded because the application fails when the mitigation plans fail due to denial of the change in appropriation.

You may see this as a highly unlikely scenario. However, at the present time, there is currently a request for a change in appropriation which DNRC deemed in its EA to have no impact on dewatering. Objectors are taking issue and it has been on hold since last September 2006.

If the objectors are the same group, they must now file two sets of objections with different time frames to proceed at incredible cost.

FIX: Section 16 2(e) and 3(f) If there are objections to this application for a change in appropriation right, the groundwater well application does not proceed through review process Section 17 until which time the change in appropriation right is approved or denied. The change in appropriation application must state that it is part of a mitigation or aquifer recharge plan.

3. The applicant has unlimited time to collect data, prepare reports and file the application. DNRC has unlimited time to review these documents. Looking at the bottom right highlighted portion of the flow chart, the Objectors have 15 to 60 days to file and objection as determined by DNRC. The norm seems to be 30 days. Objectors then have only 60 days to prepare for the hearing. They will not be provided with a copy of all documents, but asked to drive to the nearest regional office to view them. They must take time off work, group together, hire attorneys and hydrologist and be prepared in this narrow window of time. There is an underlying premise that all the work that the applicant has done is valid. This may not be so.

Public notice is given in the newspaper and mailed to individuals as deemed impacted by DNRC, usually adjacent land owners. To date, in 3 instances I have found that the personal mailings have been incomplete leaving off impacted prior appropriators. This means that only through word of mouth by other prior appropriators are these people brought into the process. Yet the clock is already ticking toward deadlines.

FIX:

Applicant must provide at least one copy of all reports provided with the application and DNRC must provide a copy of its recommendations with opinions and reasons to the objectors in the community in which the impact occurs at date of public notice.

A minimum of 60 days be allowed to file an objection. Then a minimum of 60 days is allowed before the hearing date is set.

4. If the applicant has shown adverse impact, they are only required to submit a mitigation or aquifer recharge plan. There is no guarantee that the mitigation or aquifer recharge plans will work as specified in the application. The time that the depletion adversely impacts the prior appropriators may be a year or more after the groundwater well begins pumping. There is nothing in this bill that protects the prior appropriators.

FTX:

Put the Monitoring Section back in the bill Such Monitoring is described in Section 17, pages 54 to 57 of Draft LC 1383 which was a predecessor to this bill. Otherwise this bill places the burden on the prior appropriator who it has been acknowledged will have adverse impact if the mitigation plans fail.

5. If the Bureau of Mines has insufficient information to determine if the proposed scope of the Hydrogeologic Assessments is adequate, they should in conjunction with DNRC determine what are the questions that need answering and design a research plan accordingly.

To chose Case Studies from existing pending groundwater applications does not appear to be the way to conduct research. It also is a conflict of interest for potential objectors and is asking the taxpayer to foot the bill for the developers hydrogeologic studies.

FTX: Section 23 Closed Basin Case Study should end after sections (1)(a and b). Delete sections (2 to 6). Delete Section 24 and revise the fiscal note accordingly.

Thank you for giving attention to this testimony,

Sincerely,

Susan Brown

HB 831 PLACES AN UNREALISTIC TIME FRAME AND ENORMOUS FINANCIAL COSTS ON SENIOR WATER RIGHT HOLDERS TO PROTECT AGAINST ADVERSE IMPACT

4

Section 14 The application must be accompanied by a hydrogeologic assessment and by a mitigation or aquifer recharge plan if necessary.

Does application result in a Net Depletion?

No
↓

Yes
↓

Is there adverse impact?

No
↓

Process Application
As Provided in Section 17

Section 14 5(b) DNRC makes determination of adverse impact

Yes
↓

May proceed if shows that adverse effect is offset (section 16).

Mitigation Plan

Aquifer Recharge Plan

Section 16 2(c) and 3(f) evidence that the application for change in appropriation
Right has been submitted.

Review Process Section 17

The application, hydrogeologic assessment, mitigation or aquifer recharge plans are submitted to DNRC

85-2-302 DNRC determines if the application is complete and correct. DNRC issues and opinion and reasons including criteria assessment and recommends that it is Approved, Denied or Approved with conditions, prior to public notice as provided in 85-2-307

If no valid objection

DNRC recommends: Approve

Denial or Approval with Modification

Issue Permit
Hearing not Held

85-2-310 DNRC has 180 days to
deny or modify

If valid objection (85-2-307 Section 2 DNRC gives 15 to 60 days to file valid objection)

85-2-308 to 85-2-311 If Objection form not complete 15 days to fix
DNRC sets hearing 60 days from date required to file objections.

If Applicant satisfies 85-2-311 and 85-2-402 and proves net depletion will not adversely
Affect prior appropriators based on mitigation or aquifer recharge plan the permit is issued

Montana's Basin Closures and Controlled Groundwater Areas

December 2003

**Water Resources Division
Water Rights Bureau
1424 9th Avenue
P.O. Box 201601
Helena, Montana 59620-1601**

<http://www.dnrc.state.mt.us/wrd/home.htm>

For questions call (406) 444-6610

*Provided by Holly Franz
On Behalf of PPL Montana
April 3, 2007*

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ADMINISTRATIVE RULE CLOSURES

For DNRC to adopt administrative rules to close a drainage basin, special conditions must exist in the basin (85-2-319, MCA). These conditions are that during certain times of the year: there is no unappropriated water in the source of supply, the rights of prior appropriators would be adversely affected by further appropriation, new uses would interfere with other planned uses, the water quality of an appropriator would be adversely affected by further appropriation, additional new uses would affect water quality so that the source will not meet its classification under 75-5-301(1), MCA (this law provided for the establishment of classification of all state waters in accordance with their present and future most beneficial uses and relates to water quality), and additional new uses would adversely affect the ability of holders of discharge permits to satisfy their effluent limitations.

Grant Creek Basin

Location: Grant Creek is a tributary of the Clark Fork River in Missoula County.

Effective Date: January 26, 1990

Information:

- The entire Grant Creek drainage, from its headwaters to its confluence with the Clark Fork River, including all named and unnamed tributaries, is contained in the closure area.
- No new appropriations of surface water for consumptive use can be made from July 1 - September 30 of each year.
- Permits for nonconsumptive use during the closure period will be conditioned to provide that they will not decrease the source of supply, disrupt stream conditions below the point of return, or adversely affect prior appropriators between the point of diversion and the point of return.

Rock Creek Basin

Location: Rock Creek is a tributary of the Clarks Fork of the Yellowstone River in Carbon County.

Effective Date: February 9, 1990

Information:

- The entire Rock Creek drainage, from its headwaters to its confluence with the Clarks Fork of the Yellowstone River, including Red Lodge, Spring, Dry, Willow, and Clear Creeks, the West Fork of Rock Creek, and all unnamed tributaries, are included in the closure area.
- No new appropriations of surface water for consumptive use can be made from June 1 - September 30 of each year.
- Permits for nonconsumptive uses during the closure period will be conditioned to provide that they will not decrease the source of supply, disrupt stream conditions below the point of return, or adversely affect prior appropriators between the point of diversion and the point of return.

Walker Creek Basin

Location: Walker Creek is a tributary of the Whitefish River in Flathead County.

Effective Date: September 28, 1990

Information:

- The entire Walker Creek drainage, from its headwaters to its confluence with the Whitefish River, is contained in the closure area.
- No new appropriations of surface water for consumptive use can be made from July 1 - March 31 of each year.
- Permits for nonconsumptive use during the closure period will be

conditioned to provide that they will not decrease the source of supply, disrupt stream conditions below the point of return, or adversely affect prior appropriators between the point of diversion and point of return. Permits for nonconsumptive use are also subject to special conditions involving the measuring of inflow and outflow, construction of ponds and conveyance facilities to reduce loss by seepage, and filling of ponds during spring runoff or by June 1 (whichever comes first).

Towhead Gulch

Location: The Towhead Gulch drainage area is a tributary of the Missouri River at Upper Holter Lake in Lewis and Clark County.

Effective Date: January 17, 1992

Information:

- The entire Towhead Gulch drainage, from its headwaters to its confluence with the Missouri River, including Beartooth Creek and all unnamed tributaries, is contained in the closure area.
- Rattlesnake Gulch, McLeod Gulch, and their tributaries are not included in the basin closure.
- No new appropriations of surface water for consumptive use can be made during any time of the year.
- Permits for nonconsumptive use will be conditioned to provide that they will not decrease the source of supply, disrupt stream conditions below the point of return, or adversely affect prior appropriators between the point of diversion and the point of return.

Musselshell River

Location: The Musselshell River, from the headwaters of the

North and South Forks (Meagher County), flows through Wheatland, Golden Valley, and Musselshell Counties, and forms an east-west boundary for Petroleum, Garfield, and Rosebud Counties.

Effective Date: June 26, 1992

Information:

- The closure area contains the mainstems of the North and South Forks of the Musselshell River, and the Musselshell River downstream to the mouth of Flatwillow Creek.
- No new appropriations of surface water for consumptive use can be made during the period of July 1 - August 31 of each year.
- During the period of September 1 - September 30, the only applications for consumptive use that will be accepted will be for supplemental irrigation.
- Permits for nonconsumptive use during the closure period will be conditioned to provide that they will not decrease the source of supply, disrupt stream conditions below the point of return, or adversely affect prior appropriators between the point of diversion and the point of return.

Sharrott Creek Basin

Location: Sharrott Creek is a tributary of McCalla Creek and is located in the Bitterroot River hydrologic basin in Ravalli County.

Effective Date: July 16, 1993

Information:

- The closure area is the entire Sharrott Creek drainage from

its headwaters to its confluence with McCalla Creek, including all tributaries.

- No new appropriations of surface water for consumptive use can be made at any time of the year.
- Permits for nonconsumptive use will be conditioned to provide that they will not decrease the source of supply, disrupt stream conditions below the point of return, or adversely affect prior appropriators between the point of diversion and the point of return.
- Applicants for groundwater appropriations within the closure area must prove the groundwater is not substantially or directly connected to surface water. Applications for groundwater that would cause a calculable reduction in surface water flow will be rejected.

Willow Creek Basin

Location: Willow Creek is a tributary of the Bitterroot River in Ravalli County.

Effective Date: September 23, 1994

Information:

- The entire Willow Creek drainage from its headwaters to its confluence with the Republican Ditch, including all tributaries, is contained in the closure area.
- No new appropriations of surface water for consumptive use can be made from May 1 - September 30 of each year.
- Permits for nonconsumptive use will be conditioned to provide that they will not decrease the source of supply, disrupt stream conditions below the point of return, or adversely affect prior appropriators between the point of diversion and the point of return.
- Applicants for groundwater appropriations within the closure area must prove that groundwater is not substantially or directly connected to surface water. Applications for groundwater that would cause a calculable reduction in surface water during the

closure period will be rejected.

Truman Creek Basin

Location: Truman Creek is a tributary of Ashley Creek in Flathead County.

Effective Date: February 10, 1995

Information:

- The entire Truman Creek drainage from its headwaters to its confluence with Ashley Creek, including Bales Creek, Emmons Creek, Wild Bill Creek, and all unnamed tributaries, is contained in the closure area.
- No new appropriations of surface water for consumptive use can be made from July 15 - August 31 of each year.
- Permits for nonconsumptive use will be conditioned to provide that they will not decrease the source of supply, disrupt stream conditions below the point of return, or adversely affect prior appropriators between the point of diversion and the point of return.
- Applicants for groundwater appropriations within the closure area must prove the groundwater is not substantially or directly connected to surface water. Applications for groundwater that would cause a calculable reduction in surface water flow during the closure period will be rejected.

Sixmile Creek Basin

Location: Sixmile Creek is a tributary of the Clark Fork River in Missoula County.

Effective Date: December 8, 1995

Information:

- The entire Sixmile Creek Drainage, including the West Fork of Sixmile Creek and all unnamed tributaries, is contained in the closure area.
- No new appropriations of surface water for consumptive use

can be made from June 1 - September 15 of each year.

- Permits for nonconsumptive use will be conditioned to provide that they will not decrease the source of supply, disrupt stream conditions below the point of return, or not adversely affect prior appropriators between the point of diversion and the point of return.

Houle Creek Basin

Location: The Houle Creek basin is located in Missoula County.

Effective Date: September 20, 1996

Information:

- The entire Houle Creek drainage, from its headwaters to its confluence with the Frenchtown Irrigation District ditch, including all unnamed tributaries, is included in the closure area.
- No new appropriations of surface water for consumptive use can be made during any time of the year.
- Permits for nonconsumptive use will be conditioned to provide that they will not decrease the source of supply, disrupt stream conditions below the point of return, or adversely affect prior appropriators between the point of diversion and the point of return.
- Applicants for groundwater in excess of 35 GPM or 10 acre-feet within the closure area must prove the groundwater is not part of, or substantially or directly connected to surface water. Applications for groundwater that would cause a calculable reduction in surface water flow at any time during the year will be rejected.

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